



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

CRS
Docket No: 5517-00
4 December 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) BUPERSINST 1900.8

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by changing the RE-4 reenlistment code assigned on 6 May 1997.

2. The Board, consisting of Mr. Pfeiffer, Mr. Whitener, and Ms. Humberd, reviewed Petitioner's allegations of error and injustice on 29 November 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 22 April 1997 at age 19.

d. On 2 May 1997 the commanding officer directed Petitioner's separation based on a medical evaluation that diagnosed him as having a perforation of the right ear drum. On 6 May 1997 he received an entry level separation by reason of "Failed Medical/Physical Procurement Standards". At that time he was assigned a reenlistment code of RE-4.

e. Reference (b) indicates that for an individual in Petitioner's situation, an RE-4 reenlistment code must be assigned if the reason for separation is a failure of medical or physical procurement standards. Change 1 to that reference, distributed in 1996, states that an RE-3E reenlistment code may be assigned to individuals separated for that reason. However, the Board recently has been advised that Change 1 was erroneously released and has no force and effect.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board concludes that whether or not Change 1 of reference (b) was effective, the reenlistment code of RE-3E should now be assigned since there is no evidence that Petitioner had any performance problems or disciplinary infractions during his brief period of service. Accordingly, his record does not warrant the most stigmatizing reenlistment code of RE-4. A code of RE-3E will alert recruiting personnel that there was a problem with Petitioner's prior enlistment which must be resolved before reenlistment is authorized.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 6 May 1997, Petitioner was assigned an RE-3E reenlistment code instead of the RE-4 reenlistment code actually assigned on that date.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.


c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director